IN THE HIGH COURT OF BOMBAY AT GOA

LETTERS PATENT APPEAL NO.9 OF 2002
and
CIVIL APPLICATION NO.312 OF 2002

Indian Saw Mills,
Tilamol, Xeldem,
Quepem, Goa ... APPELLANT

VERSUS

The Regional Director,
Employees State Insurance
Corporation, having office
at Panchadeep Bhavan,
Patto,Panaji-Goa ... RESPONDENT

Mr. M.S. Sonak and Mr. D. Pangam, Advocates for the Appellant.

CORAM : P.V. KAKADE &
P.V. HARDAS,JJ.

DATED : OCTOBER 28, 2002.

ORAL ORDER (Per **P.V. KAKADE,J.)**

The Appellant has filed this Appeal against the Judgment and Order dated 7th June,2002 passed by the learned Single Judge in Appeal under ESI Act No.1 of 2002, dismissing it in limine, being devoid of substance.

2. The facts giving rise to the Appeal are thus:

In the year 1992, the Respondent issued letter to the Appellant stating that the Appellant

was covered under the ESI Act and thereafter Respondent issued demand notice for the period from August 1991 to March 1993 under Section 45-A of the ESI Act and also demanded additional amount therein. Then, the Respondent issued notice in Form C-18 for further period from April 1993 to September 1993 demanding further contribution on ad-hoc basis of Rs.7,079/-. On 17-1-1974 the Respondent issued Order under Section 45-A of the ESI Act and further demanded contribution along with interest and then issued notice demanding damages for the period from August 1991 to March 1993 and thereafter passed an Order under Section 85-B of the ESI Act demanding the amount of Rs.8,013/-. Subsequently, the Respondent also made further demands for contribution for the period from October 1993 to March 1994 on ad-hoc basis and for further period. The Appellant made payment of Rs.25,180/- and Rs.8,091/- in February 1994 as well as September 1994, respectively.

The Appellant also filed an Application before the ESI Court which was registered as Case No.2 of 1995 Old and 14 of 2000 New challenging the Order of the Respondent under Section 75 of the ESI Act. However, after hearing both the parties the learned ESI Court dismissed the Appellant's

Application and hence ESI Appeal No.1 of 2002 came to be filed which was dismissed in limine. Hence this Letters Patent Appeal.

3. We have heard the learned Counsel for the Appellant. On perusal of the record it is seen that the Appellant has taken up submissions regarding misappreciation of evidence and documents. However, the learned Single Judge after having seen the evidence, documents and the findings recorded, reached to the conclusion that no substantial question of law was involved warranting entertainment of the said Appeals under Section 82 of the Employees State Insurance Corporation Act, which was analogous to Section 100 of the Civil Procedure Code. It was also held that the re-appreciation of evidence was not permissible and no misconstruction of evidence was shown in any way whatsoever. It was also observed that no perversity could be demonstrated by the Appellants and the appreciation of evidence was legal and proper as the findings were found to be based on legal evidence and each finding could be supported on the basis of material on record. In view of this position, the Appeal came to be dismissed.

4. We have carefully considered the entire

record vis-a-vis the impugned Order by the learned Single Judge and find no substance in the Appeal and hence hold that no interference in the Order of the learned Single Judge is required.

5. In the result, the Letters Patent Appeal stands dismissed with no order as to costs, along with the Civil Application.

P.V. KAKADE,J.

P.V. HARDAS,J.

ac.